

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CRM-M-11951-2022**

**Date of Decision:-25.04.2022**

**Ashu.**

.....**Petitioner.**

Versus

**State of Haryana.**

.....**Respondent.**

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. P.S. Ahluwalia, Advocate for the Petitioner.

Mr. Karan Sharma, Deputy Advocate General, Haryana.

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**JASJIT SINGH BEDI, J. (ORAL)**

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.499 dated 19.11.2021 under Sections 467, 468, 471, 272, 273, 420 IPC and Section 63 & 65 of Copy Right Act and Section 7 and Section 10 of Essential Commodities Act, 1955 registered at Police Station Jind Sadar.

The brief facts of the case are that on 19.11.2021, SI Bijender Singh, Incharge, Detective Staff, along with his colleague officials was present at Rohtak Road, Bye pass, Jind on patrolling and crime detection duty when he received secret information that (1) Ashu son of Ishwar Singla r/o Ram Nagar, Rohtak Road, Jind (the present petitioner), (2) Roshan son of Surajbhan Singla r/o Rohtak Road, Bypass, Jind, (3) Ram Niwas son of Banarsi Singla r/o Ajmeer Basti, Bhiwani Road, Jind, (4) Kapil and (5)

Deepak sons of Sushil Goyal, r/o Gurudwara Colony, street no.2, Jind, are running a factory at Kishanpura Raghunagar, Jind, in the name and style of “Sanwaria Food Industries” and after mixing the perfume with chemicals in refined oil and Dalda Ghee are preparing the counterfeit Ghee by the name of Shri Haryana Deep, Haryana Utsav, Naksh Dairy, Kanhaiya Light, Haryana Dairy Super and Radha-Krishna and Vita Ghee. After filling in the above said packing they were selling the same in the market. They also illegally used domestic cylinders for preparing the counterfeit vegetable oil and Ghee and they have also got prepared fake wrappers/labels. Thereafter, a raid was conducted at Sanwaria Food Industries, Jind on the basis of the said secret information. Ashu son of Ishwar Singla, r/o Ram Nagar, Rohtak Road, Jind (petitioner), Roshan son of Surajbhan Singla r/o Rohtak Road, Bye Pass, Jind with their labour Shailesh s/o Sher Bahadur, r/o Village Kankhara Rai Bareli UP and Virender son of Malkhan Singh r/o village Chitai District Datiya, MP were found present there, who were doing the packing of counterfeit Ghee. Huge quantity of the material used for preparing counterfeit ghee and Rs.4,17,520/- were recovered from the spot. Sample parcel of the recovered ghee were separated by Sh. Bhanwar Singh, Food and Supplies Officer, Jind and the same were taken by him for examination of the samples. Thereafter the present case bearing FIR No.499 dated 19.11.2021 under Sections 467, 468, 471, 272, 273, 420 IPC and Sections 7,10 & 55 of Essential Commodities Act was registered at Police Station Sadar Jind.

Pursuant to the registration of the FIR, the matter was investigated which culminated into the presentation of the first final report under Section 173(2) Cr.PC. The final report was presented under Section

63 and 65 of the Copyright Act, 1956, Section 7 of Essential Commodities Act, 1955 and Sections 272, 273, 420, 467, 468, 471 IPC. Pursuant thereto charges came to be framed against the petitioner and his co-accused only for the offences punishable under Sections 120-B IPC, Section 420 read with Section 511 IPC, Sections 465, 468, 471, 482, 485, 486 and 487 IPC, Sections 63 & 65 of the Copy Right Act and Section 7 of Essential Commodities Act, 1955. The petitioner was discharged for the offence punishable under Sections 420 and 467 IPC and no charges were framed under Sections 272 and 273 IPC. The copy of the order framing charges was attached as Annexure P-3.

The Counsel for the petitioner submits that he has been in custody since 20.11.2021 and the investigation is over. Therefore, his further custodial interrogation is not required since the charges have been framed and the trial is yet to commence. He contends that most grave offence for which the petitioner could have been charged was under Section 467 IPC for which he has already been discharged. The offence under Sections 465, 482, 485, 487 and 486 all are bailable. He further contends that the provisions of the Copyright Act would not apply to his case and the breach if any would be in terms of the Trademark Act. He further referred to the status report Annexure P-4 submitted in this Court at the time when the anticipatory bail application of the co-accused had been filed. As per para 14 of the said status report, the State has submitted that the date of birth of the petitioner was 21.07.2002 i.e. the petitioner was just about 18 years old when the firm was constituted. Thus as per the investigation it was found that the aforesaid firm of Sanwaria Food Industries and Sanwaria Trading Company were registered in the name of the petitioner but it was

Kapil Goyal and Deepak Goyal who were 40% partners in the said firm and were running the same independently in the name of Ashu (Minor) (present petitioner). In view of the aforesaid facts the counsel submitted that the petitioner deserves the concession of regular bail moreso when his co-accused Virender, Roshan and Shalesh had been granted the concession of regular bail vide order Annexure P-5 & P-6. He lastly contended that as many as 41 witnesses were to be examined and, therefore, the trial is not likely to be concluded in near future which also entitles the petitioner for the grant of regular bail.

The Counsel for the State has submitted a reply dated 22.04.2022. As per the said reply Deepak Goyal and Kapil Goyal were arrested on 21.02.2022 and during the course of investigation they admitted that they were having 40% share in Sanwaria Food Industries factory. Similarly Ram Niwas was arrested on 26.02.2022 wherein he admitted that he was a share holder to the extent of 40%. He disclosed that he had only invested money in the company and work was being supervised by Deepak and petitioner/accused-Ashu. It was further submitted that the first report under Section 173(2) Cr.PC was submitted on 15.01.2022 against Ashu the present petitioner, Roshan, Shalesh and Virender. A supplementary report under Section 173(8) Cr.PC was submitted on 07.04.2022 against Kapil, Deepak and Ram Niwas. It was lastly pointed out that the offences were serious and there was possibility of causing threat to the public witnesses if the petitioner was granted bail though it was admitted that the petitioner is not involved in any other case.

I have heard counsel for both the parties at length.

Even as per the case of the prosecution, the petitioner was

about 18 years of age when the firm was opened. It is Deepak Goyal, Kapil Goyal, Ram Niwas who were shareholders to the extent of 80%. Admittedly the petitioner is in custody since 20.11.2021 and as such has undergone a total custody period of about five months. As many as 41 witnesses are yet to be examined and as per the chargesheet as on date the petitioner could be convicted and sentenced for a maximum period of seven years assuming his culpability was established during the trial.

Thus keeping in view the aforementioned facts as also the age of the petitioner and the possibility of a delayed trial, the present petition is allowed and the petitioner-**Ashu** son of Sh. Ishwar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

Petition stands disposed of.

( JASJIT SINGH BEDI )  
JUDGE

April 25, 2022  
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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |